

HOUSE BILL 295
By Head

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 4, Part 5, relative to a tax on the privilege of recording transfers of realty.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 4, Part 5, is amended by adding the following language as a new, appropriately designated section:

Section 67-4-508.

(a) Notwithstanding any provision of law to the contrary, on all transfers of realty whether by deed, court deed, decree, partition deed, or other instrument evidencing transfer of any interest in real estate, a county is empowered to levy for county purposes by action of its governing body a tax on the privilege of having the same recorded, which shall be levied at a rate equal to the rate of the transfer tax levied by the state under Section 67-4-409(a). The transfer tax may be levied on any transfer of realty taxable by the state, and the transfer tax shall be levied and collected in the same manner as the state transfer tax levied by Section 67-4-409(a), except as otherwise provided in this section.

(b) For purposes of this section, unless the context otherwise requires:

(1) "Adequate facilities tax" means any privilege tax that is a development tax, by whatever name, imposed by a county on engaging in the act of development; provided, however, that the meaning of "adequate facilities tax" shall not include:

(A) Any impact fee that is imposed by a county or municipality; or

(B) Any special assessment imposed by a county or municipality pursuant to any act of general or local application.

(2) "Development" means the construction, building, reconstruction, erection, extension, betterment, or improvement of land providing a building or structure or the addition to any building or structure, or any part thereof, that provides, adds to, or increases the floor area of a residential or non-residential use.

(3) "Impact fee" means a monetary charge imposed by a county or municipal government to regulate new development on real property. The amount of the impact fees is related to the costs resulting from the new development and the revenues from this fee are earmarked for investment in the area of the new development.

(c)

(1) The transfer tax levied under this section shall be based on and limited in its application to the consideration for the transfer or the value of the property, whichever is greater, except in the case of a quitclaim deed, for which the tax shall be based only on the actual consideration given for that conveyance, up to and including five million dollars (\$5,000,000). No transfer tax shall be due or paid as to any portion

of such consideration or value in excess of five million dollars (\$5,000,000).

(2) Each county enacting a realty transfer tax under this section is authorized and encouraged to establish a program to provide rebates to low income, elderly and/or disabled persons paying the realty transfer tax on transfers of residential property. Such rebates shall be paid in a manner prescribed in the resolution authorizing the realty transfer tax or any amendment thereto. The resolution shall also establish those classifications of persons eligible to receive the rebate.

(d) No resolution authorizing such realty transfer tax shall take effect unless it is approved by a two-thirds (2/3) vote of the county legislative body at two (2) consecutive, regularly scheduled meetings or unless it is approved by a majority of the number of qualified voters of the county voting in an election on the question of whether or not the tax should be levied. Any county adopting a realty transfer tax according to this section may rescind such action by resolution of the county legislative body adopted in the same manner as the resolution imposing this tax.

(e) Any oath required pursuant to Sections 67-4-409(a) or (b) shall not be introduced as evidence in any proceeding had in connection with any condemnation action for the purpose of indicating the value of such property.

(f) Instruments made pursuant to mergers, consolidations, sales or transfers of substantially all of the assets in this state of corporations, pursuant to plans of reorganization, are exempt from this section.

(g)

(1) The recording and re-recording of all transfers of realty in which a municipality is the grantee or transferee shall be exempt from this section.

(2) For purposes of this subsection, (g) "municipality" shall have the same meaning as set forth in Section 67-4-409(f)(2).

(h) Notwithstanding subsection (a), a county may only levy a realty transfer tax or an adequate facilities tax, but not both.

(i) All tax revenue collected pursuant to this section shall be used exclusively to pay interest or principal on county school debt.

(j) For collecting and reporting taxes levied under this section, county registers shall be entitled to retain as commission two and one-half percent (2-1/2%) of the taxes so collected. The county register in each county that has adopted the tax authorized by this section shall also be entitled to charge and receive a fee of one dollar (\$1.00) for issuing a receipt for taxes collected pursuant to this section, whether this receipt is a separate document or is included within a receipt for state taxes levied by Section 67-4-409. Such fee shall be paid when the tax receipt is issued.

SECTION 2. This act shall take effect July 1, 2001, the public welfare requiring it.